About 60 opponents of Amendment 2 gather in Acacia Park on Tuesday night to savor a Denver District Court ruling that the amendment is unconstitutional. Speakers backed calls to end a nationwide boycott of Colorado. Katherine Pease of Colorado Springs-based Ground Zero said Tuesday that "Amendment 2, for the time being, is no longer a threat." Complete report/A6

Both sides find solace in judge's ruling

By **Jeff Thomas**
Gazette Telegraph

DENVER — On Tuesday, the sun rose, Judge Jeffrey Bayless declared Amendment 2 unconstitutional, the sun set, and the world was pretty much the same.

Since January, Amendment 2 had been on the shelf, unenforceable while Bayless considered its constitutionality. At dusk Tuesday, Amendment 2 remained on the shelf.

City ordinances in Denver, Boulder and Aspen that enable gays and lesbians to file discrimination claims based on their sexuality were in force Monday, and they remain in force today.

Until the U.S. Supreme Court, or perhaps Congress, choses to settle the gay rights debate, both sides will have to take what ammunition they can from Bayless' ruling.

Suzanne Goldberg, attorney for the Lambda Legal Defense and Education Fund, a New York-based, gay-and-lesbian advocacy group, said the ruling aids gays and lesbians in their battle against Amendment 2-like measures that have sprung up across the country.

"This may serve as a roadblock to other initiatives," Goldberg said.

Aided by Bayless' decision, Lamda Legal Defense will continue to erect its own roadblocks. Lambda has derailed Amendment 2-style proposals in a few states before they even got to the ballot and has temporarily stalled them in Florida, Missouri and Oregon, pending final court decisions. Similar challenges in Idaho and Maine failed.

Despite the mixed record, activists believe Bayless' ruling can only help them in the expanding fight over gay rights.

"We do have the opportunity to contest those (proposed ballot measures), either after they have been adopted or even raising the question of the validity of the initiative process," said Bill Reynard of the American Civil Liberties Union.

"This case will help, particularly in making an early challenge, even before such measures reach the ballot."

Of course, Amendment 2 already has been on the ballot and approved by the voters of Colorado. Bayless' ruling puts it on permanent hold. Yet activists on both sides of gay rights doubt whether the ruling will be the last word.

Opponents of Amendment 2 predict the measure to return in a different wrapper.

"I expect that in 1994 or 1996, (Amendment 2 author) Colorado for Family Values will come back with another ballot initiative not too unlike Amendment 2," said Mary Celeste, a member of the legal

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STILL CONTROVERSIAL: Ruling won't stop divisiveness on issue/**A3**
PUBLIC RESPONSE: Residents speak out on judge's decision/**A3**
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REACTION: Both sides respond to ruling/**A4**
KEY ARGUMENTS: What the judge heard/**A7**
MCCAFFREY: Professor calls decision "monumental."/**B1**

Associated Press

Will Perkins, chairman of Colorado for Family Values that wrote Amendment 2, answers questions Tuesday in Denver.

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Food/D1
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Ruling/Issue expected to resurface

KEY ARGUMENTS

Summary of the key arguments in the case put forth by plaintiffs and the state's attorney, and how Judge Jeffrey Bayless responded to them:

THE STATE: Lawyers for the Attorney General's Office offered half a dozen reasons why Amendment 2 should become law. They argued that the amendment keeps the state from splitting into political factions, preserves government's ability to help groups with a long history of discrimination, stops the government from interfering in the private affairs of the family and promotes religious freedom and the well-being of children.

Bayless rejected all but two of those arguments. He agreed that the government had an interest in preserving religious freedom and familial privacy. But he said Amendment 2 wasn't written narrowly enough to preserve those interests without trampling the rights of gays and lesbians.

THE PLAINTIFFS: Attorneys fighting Amendment 2 argued that it violates a fundamental right of gays to participate in the political process on an equal footing with other groups. They also said there was no rational reason for the measure. But they spent most of the trial arguing that it's time for the courts to step in and stop the government from discriminating against gays.

Bayless agreed that the amendment violates gays' right to participate in the political process. But he didn't buy the plaintiff's argument that gays need protection from the courts. Echoing other judges, he said gays have enough political clout to get what they need without help from the judiciary. Bayless did not even address whether there is a rational reason for Amendment 2.

From A1

team that challenged the amendment.

Colorado for Family Values Chairman Will Perkins said he won't consider proposing another ballot initiative until the courts finally decide the merits of Amendment 2. Indeed, Perkins and allies from coast to coast said Bayless actually helped their cause.

They are particularly pleased that Bayless ruled that gays and lesbians do not qualify for discrimination protection in the same way that racial minorities and women do. That should cheer petition-passers in other states hoping to enact Amendment 2-style laws of their own, even though such measures are now under legal suspicion.

"I don't think (the ruling) is going to affect the going ahead with petitions," said Robert Skolrood, executive director of The National Legal Foundation, which has provided legal help to Colorado for Family Values and other groups. "Not only will there not be a loss of momentum, I think they'll be encouraged."

The lessons of Amendment 2 are already being learned. The Oregon Citizens' Alliance, for instance, has inserted provisions in its proposed statewide initiative that supporters believe will defuse the constitutional issues raised in the Amendment 2 lawsuit.

"We recognized that there are Judge Baylesses out there," said alliance Chairman Lon Mabon.

Mabon, Skolrood and Perkins are convinced that the U.S. Supreme Court will throw out Bayless' opinion and reinstate Amendment 2 in the Colorado Constitution. In the meantime, Mabon said, setbacks such as the one suffered Tuesday will only steel the resolve of activists arrayed against the gay and lesbian lobby.

> "We're willing to go to the mat. Our resolve is to the point where we're going to remove judges. Our resolve is solidifying because of the Judge Baylesses, because of the ACLU, to preserve what people feel is the American heritage."
>
> **Oregon Citizens' Alliance chairman Lon Mabon**

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On that point, there is little disagreement. Reynard of the ACLU acknowledged that voters haven't heard the last of the Oregon Citizens' Alliance, Colorado for Family Values or similar groups.

"They feel, in good conscience, they need to do everything they can to stamp out homosexuality," he said. "That's why their campaigns are going to continue. This battle isn't over."

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